

Exhibit E

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

CONCERNED PASTORS FOR SOCIAL
ACTION, et al.,

Plaintiffs,

v.

Case No. 16-10277

Hon. David M. Lawson

NICK A. KHOURI, et al.,

Defendants.

_____ /

SECOND DECLARATION OF NICOLE VANDAL

I, Nicole Vandal, declare as follows:

1. I am a Litigation Assistant employed by the Natural Resources Defense Council, a plaintiff in this action.

Analysis of City of Flint’s May 22, 2023 Outreach Reporting

2. On May 22, 2023, Joe Kuptz, Assistant City Attorney, City of Flint, sent an email to me and Plaintiffs’ counsel attaching a spreadsheet titled, “2023-05-14 Outreach Attempts.” *See* Calero Decl. Ex. 34. I understand this to be the most recent outreach data that the City has provided to Plaintiffs as of May 25, 2023 (the City also provided the same spreadsheet on May 25). The spreadsheet includes a list of 1,068 addresses. The columns in the spreadsheet include: C (“Mailing – Consent Attempt #1”), D (“Consent Attempt #2”), E (“Consent

Attempt #3”), F (“Consent Attempt #4), L (“Resident Declined?”), M (“Consent Obtained?”) and N (“Comment”). The entries in the Comment column include: “ABANDONED,” “EMPTY LOT,” “VACANT,” and blank.

3. I conducted a limited analysis of the data in the “2023-05-14 Outreach Attempts” spreadsheet relating to the City’s compliance with the Settlement Agreement (Agreement) in this case. In particular, I analyzed this spreadsheet to understand whether there are addresses on the 2022 Replacement Eligible Homes List, *see* Order Mod. Settlement Agmt. ¶ 1, ECF No. 237, PageID.11071, where the City has *not* completed all outreach requirements under the Agreement. I understand that those outreach requirements include sending at least one mailing and making at least two in-person contact attempts (at least one of which occurred on a weekend or after 5 p.m.) seeking the resident’s consent to conduct service line work at each address. Order Am. Settlement Agmt. ¶¶ 14-15, ECF No. 208, PageID.10354-55.

4. To do this analysis, I cross-referenced several spreadsheets documenting aspects of the City’s work, as described in Paragraphs 5 to 9 below. As a result of this analysis, I found that, based on the City’s reporting through May 22, 2023, there are at least 16 addresses where the City has remaining outreach obligations. I have not yet completed an analysis of the outreach compliance status of all addresses on the “2023-05-14 Outreach Attempts” spreadsheet, nor have I

fully analyzed all addresses on the 2022 Replacement Eligible Homes List to understand the total number of addresses where the City may have additional outreach obligations.

5. To conduct my analysis, I began with the “2023-05-14 Outreach Attempts” file described in Paragraph 2 above. First, I used the filtering function in Excel to hide rows with “Yes” listed in column M (“Consent Obtained?”). Filtering in Excel allows the viewer to see only those rows that meet specified criteria. I assumed for purposes of this analysis that the City had obtained a signed consent form for addresses with “Yes” in the “Consent Obtained?” column. If a resident has provided consent, I understand that the City need not conduct further outreach.

6. Next, I filtered the list to hide any rows with “Yes” in column L (“Resident Declined?”). I assumed that the residents at the addresses with “Yes” listed in this column had declined to participate in the pipe replacement program. If a resident declined to participate, I understand that the City need not conduct further outreach to that address. *See* Order Mod. Settlement Agmt. ¶ 4, ECF No. 237, PageID.11073-74.

7. I also filtered this list to hide rows with “ABANDONED” or “EMPTY LOT” listed in column N (“Comment”). I assumed for purposes of this analysis that addresses in these two categories were not eligible for service line replacement under the Agreement.

8. Next, I filtered the list to show only those addresses with a blank in column E (“Consent Attempt #3”). I assumed that if the entry in the “Consent Attempt #3” column was blank, that meant that the City had only conducted at most one in-person consent attempt (which would be listed in the “Consent Attempt #2” column). Column C is labeled “Mailing – Consent Attempt #1,” so I assumed that all entries in that column refer to mailings. The result was a list of 20 addresses. Of these, 3 are listed as “VACANT” in column N (“Comment”). Of the remaining 17 addresses, 1 showed no outreach attempts at all, 10 showed no mailing, 2 showed one mailing but no in-person consent attempts, and 4 showed one mailing and only one in-person consent attempt. Based on this filtering, I concluded that the City had remaining outreach requirements at these 17 homes unless other data provided by the City showed further activity at these addresses.

9. I then cross-checked the 17 addresses described in Paragraph 8 above against other data the City has provided to Plaintiffs, including spreadsheets with the following file names:

- a. 2023-05-19 SLE_SLR Homes Completed, Calero Decl. Ex. 42;
- b. 2023-05-12 SLE_SLR Homes Completed, Calero Decl. Ex. 41;
- c. 2023-05-05 SLE_SLR Homes Completed, Calero Decl. Ex. 43;
- d. 2023-04-28 SLE_SLR Homes Completed, Calero Decl. Ex. 40;

- e. Flint-Priority Outreach addresses list – Inactive Water Account, Calero Decl. Ex. 46;
- f. 2022-12-14 Outreach attempts-updated, Calero Decl. Ex. 27;
- g. 2023-04-14 Exploration Status, Calero Decl. Ex. 44;
- h. 2023-04-14 Declinations, Calero Decl. Ex. 44;
- i. 2023-04-14 Homes with Consent, Calero Decl. Ex. 44;
- j. 2023-04-14 Outreach Attempts, Calero Decl. Ex. 44; and
- k. 2022.01.05 Preliminary SLE-SLR Replacement Eligible Homes List, Calero Decl. Ex. 45.

I understand these spreadsheets to reflect data on homes where the City has conducted service line excavations and replacements (spreadsheets in (a) through (d), (g), and (k) above); homes where residents have consented to service line excavations (spreadsheets in (i) and (k) above); homes where residents have declined service line excavations (spreadsheets in (h) and (k) above); and homes where the City has conducted outreach attempts (spreadsheets in (e), (f), (j), and (k) above). To conduct the cross-check, I used Excel's "Find" function to search each of the spreadsheets listed in (a) through (k) above for each of the 17 addresses. There were 16 addresses where I did not find any entries showing that either the resident had consented to an excavation, the resident had declined an excavation, an excavation had been completed, or additional outreach attempts had

been completed. For the one other address, my cross-check showed that the City had completed all required outreach attempts.

10. In sum, my analysis showed that as of May 22, 2023, there were at least 16 eligible addresses where the City still has outreach requirements.

I declare under penalty of perjury that the foregoing is true and correct.

Executed in New York, New York on May 25, 2023.

A handwritten signature in black ink, appearing to read 'Nicole Vandal', written over a horizontal line.

Nicole Vandal
Natural Resources Defense Council